

ITEM:		RECOMMENDATION: CONFIRM TPO
REF NO:	TPO 2017 no.6	CASE OFFICER Hugh Coggles
LOCATION:	Dereham	APPNTYPE: N/A
Land west of Etling View		POLICY: N/A
APPLICANT: Taylor Wimpey		ALLOCATION: N
		CONSAREA: N
	James Blake Associates Ltd	LB GRADE: N
	Lavenham	
AGENT:	Suffolk CO10 9QX	TPO: 2017 no.6 unconfirmed
PROPOSAL:	Remove T7 from Tree Preservation Order 2017 no.6	

REASON FOR COMMITTEE CONSIDERATION

Formal objection to the inclusion of T7 within the Tree Preservation Order 2017 no.6

KEY ISSUES

Suitability of T7 for Tree Preservation Order.

SITE AND LOCATION

The site is the area immediately to the west of the development site known as Etling view. T7 is located within a hedgerow which separates the proposed and the existing development site.

RELEVANT SITE HISTORY

3PL/2015/1045/O Outline application for 62 houses. In order to facilitate the proposed layout it would be necessary to remove T7.

POLICY CONSIDERATIONS

The following policies of the adopted Breckland Core Strategy and Development Control Policies and the adopted Site Specific Policies and Proposals Document, including the Proposals Maps, have been taken into consideration in the determination of this application. The provisions of the National Planning Policy Framework and National Planning Policy Guidance have also been taken into account, where appropriate

CP.10 Natural Environment

DC.12 Trees and Landscape

CONSULTATIONS

Dereham TC Dereham Town Council support the retention of T7.

REPRESENTATIONS

A letter of objection dated 26th June 2017 was received by James Blake associates on behalf of Taylor Wimpey objecting to the inclusion of T7 within the order.

ASSESSMENT NOTES

Key points raised by James Blake Associates (JBA) on behalf of Taylor Wimpey (points made by JBA are shown in **BOLD**)

1. Severely reduced life expectancy due to advanced decay and poor structural condition.

Comment: In the Arboricultural Constraints report (April 2015) and Arboricultural Impact Assessment (July 2015) which were both undertaken by JBA the tree has been given an estimated remaining contribution of 40+ years. This is the highest categorisation available under the current British Standard for trees in relation to design, demolition and construction (BS5837:2012)

2. Guidance recommends that serving of Tree Preservation Orders should not be used to obstruct development and should be made to protect trees of high quality and amenity value.

Comment: The tree survey of the site undertaken by JBA identified a total of 38 individual trees, 15 groups of trees and 2 hedges. Of this total only 3 trees were given the highest "A" category. T7 was one of these trees. In the same report Category A trees are described as "*particularly good examples of their species, are rare or unusual or an essential component of the landscape. They should be retained and protected*". Government guidance on when to make a tree preservation order is "*Local planning authorities can make a Tree Preservation Order if it appears to them to be expedient in the interests of amenity to make provision for the preservation for the preservation of trees or woodlands in their area*".

3. T7 has limited amenity value

Comment: Amenity is not defined in law, so authorities have to exercise judgement when deciding whether it is within their powers to make an order. Guidance states that trees or at least part of them should normally be visible from a public place, such as a road or footpath, or accessible by the public. Visibility is not the only consideration and alone it is not sufficient to warrant an order, other factors include rarity, cultural, historic, contribution to the landscape as well as the trees importance to nature conservation.

4. The retention of T7 would sterilise a potential development site.

Comment: It is my understanding that alternative access could be explored

5. Whilst the value and importance of veteran trees is not disputed, their retention in the context of development requires careful consideration. BS5837:2012 states at section 5.2.4 Particular care is needed regarding the retention of large, mature, over-mature or veteran trees which become enclosed within new development.

Comment: Paragraph 5.2.4 does not finish at the end of this sentence, and if read on its own the above statement can easily be taken out of context, it goes on to read "*Where such trees are retained, adequate space should be allowed for their long term physical retention and future maintenance. The presence of large species trees is increasingly being seen as advantageous, since it contributes to climate change resilience, amongst other benefits. Achieving successful integration of large species trees requires careful consideration at the conceptual and design stages*".

6. Item 1.5 of JBA letter of objection – In the case of T7, the tree is an old pollard that has not been managed for a significant period of time. It has an entirely hollow trunk and the extent of decay is such that major failure of part or the entire tree is foreseeable unless management is carried out. However, given its location amongst a hedgerow there is no obligation to manage the tree and therefore its life expectancy is extremely limited.

Comment: Again it should be pointed out that in the original survey undertaken by JBA the tree has been given an estimated remaining contribution of 40+ years. This is the highest categorisation available under the current British Standard for trees in relation to design, demolition and construction (BS5837:2012). It is usually understood and recognised as good practice that when trees are surveyed in accordance with the British Standard the remaining years are assessed on the basis of no intervention. As JBA have now highlighted that major failure or failure of the tree is foreseeable and preventable then the owners of the tree should undertake appropriate action to reduce this risk to an acceptable level. As with owners of unprotected trees the owner is responsible for maintaining their trees. There is no statutory rules setting out how often or to what standard although they do have a legal 'duty of care' to take reasonable steps to ensure that their trees do not pose unreasonable risks to third parties. As JBA have pointed out that they believe failure is foreseeable it is likely that failure to address this by appropriate remedial work would be seen as unreasonable and that the owner might be deemed negligent if the tree later causes damage or injury.

CONCLUSION

T7 has been identified by JBA and the Woodland Trust as being a veteran tree. The ecological, cultural and historical heritage of these trees is widely recognised. Veteran trees provide habitats for rare fungi, invertebrates, lichens; birds and bats. The structural complexity and dead wood habitat provides habitat that does not exist on younger trees

RECOMMENDATION

Confirm order 2017 no.6 with no variation.